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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 PRAGUE 000057

SIPDIS

E.O. 12958: DECL: 01/25/2020

TAGS: PGOV PREL EINV EZ

SUBJECT: CORRUPTIONISM IN THE CZECH REPUBLIC

REF: A. PRAGUE 16

1B. PRAGUE 25

1C. 09 PRAGUE 657

1D. 09 PRAGUE 147

Classified By: Charge d'Affaires Mary Thompson-Jones for reasons 1.4 (b) and (d).

11. (C) Summary. A recent cartoon caption in a leading Czech daily captured what most Czech view as the country's biggest systemic problem: "We have had capitalism, and socialism too. Now we have corruptionism." To address corruption, the interim government of PM Jan Fischer has approved a legislative proposal that includes immunized witnesses, undercover agents and wiretaps. Politicians are eager to be seen as proactive on corruption, but the issue is mired in partisanship and the proposal will probably be diluted as it moves through parliament. The proposed package is a small step in the right direction but not enough. Current anti-corruption laws are rarely enforced; truly fixing the problem will require strong enforcement and committed leadership. Unfortunately, neither appears on the immediate horizon. End Summary.

Background

12. (SBU) Since the early 1990s, the Czech Republic has experienced what one academic called a "mind-numbing" number of corruption scandals. Interior Minister Martin Pecina, speaking to a group of U.S. business representatives on January 22, called corruption in the Czech Republic a "growing" problem that he claimed has become worse in the past three years. Pecina's comments should be taken with a grain of salt -- he is affiliated with the center-left Social Democrats (CSSD), and his comment was clearly aimed at the center-right Civic Democrat (ODS) government of PM Mirek Topolanek in power from 2006 until March 2009.

13. (C) Most analysts agree that the onset of widespread, systemic corruption flourished during the grand coalition government that was formed after the 1998 parliamentary elections. Under this so-called "opposition agreement," the two major parties (CSSD and ODS) carved up the ministries, splitting control over the important ministries (defense, finance, transportation) that oversee procurement, public tenders and real estate development. Since then, the major parties have tightened their grip on these key ministries, controlling their tenders and contracts. In addition, the Czech Republic has seen its ranking in Transparency International's corruption perceptions index fall three times in the last three years. This put the Czech Republic behind most Western European countries and all neighboring countries, except Slovakia. According to TI's Czech Republic Director David Ondracka, Czech's 2009 ranking highlights the need for structural reform and the country's lack of an anti-corruption government strategy.

Anti-Corruption Proposal

¶4. (SBU) To address the problem, the interim government of PM Jan Fischer, which currently enjoys high approval ratings, has approved an anti-corruption package to submit to parliament. Minister Pecina identified the key provisions of the package as: 1) permitting the use of wiretaps in corruption investigations; 2) giving the government more power to access financial data from private companies; 3) allowing undercover police work in corruption cases as more than "just observers", including allowing undercover officers to offer suspects supposed bribes; and 4) creation of a "crown witness" program (i.e., immunity from prosecution for turning state's witness). The crown witness program has been a major obstacle to prosecution and is largely illegal under Czech law, although a new criminal code that took effect January 1 permits reduced sentences for state's witnesses in limited situations.

¶5. (SBU) According to Pecina, the government put forth these four measures because they were the least controversial of the measures considered by the government of PM Fischer. However, both the crown witness and the undercover agent proposals have proved controversial. Pecina also noted that the government is discussing a second anti-corruption package that would make Czech public procurement law more transparent and would prohibit anonymous shares (i.e. bearer bonds) in Czech companies. For example, Pecina said the use of bearer bonds made it impossible to tell who owned companies currently renting government-owned office space at sweetheart-deal prices -- in buildings owned by his own ministry.

Political Opposition to the Proposal

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¶6. (SBU) Politicians are eager to be seen as proactive on corruption. CSSD chair Jiri Paroubek claims he regards corruption as a "cancer" in society and that his party was the only one to openly criticize the systemic corruption of the Topolanek government. Paroubek and CSSD are pushing Pecina's proposal in parliament.

¶7. (SBU) However, there is already political opposition to the proposal. ODS chair (and former PM) Topolanek has countered that Pecina's proposal is only an example of pre-election "populism," thus linking the anti-corruption package clearly to Paroubek, who is often accused of unabashed populism. Topolanek voiced no objection to the crown witness program. However, he has said the undercover agents could lead to entrapment and the expanded use of wiretapping was a "step backward" -- a clear effort to associate Pecina's package and CSSD to the excesses of the former Communist regime. Topolanek said that ODS would support the legislation through the first reading in parliament and then propose its own changes to the anti-corruption package. (Note: Normally there are three readings in parliament before a bill can be passed and move on to the Senate. End Note.)

¶8. (SBU) Similarly, Supreme Court Justice Pavel Samal warned that the anti-corruption package proposed by Pecina gives the police powers not related directly to corruption investigations. He said that if the package passes as is the ability of the police to restrict human rights and freedom will be "among the greatest in the world." When he spoke to U.S. business representatives, Pecina said wanted to show critics that the measures he is proposing, which he claimed are similar to U.S. law, did "not decrease the level of freedom" in the U.S.

¶9. (C) The International Secretary for the Christian Democrats (KDU-CSL) told poloff that KDU-CSL would support the anti-corruption package in parliament. Pavel Severa, a TOP 09 Deputy Chairman, commented that TOP would support the package, except for the undercover agents, also citing

entrapment concerns.

Enforcement and Leadership are Critical

¶10. (U) David Ondracka of TI called the anti-corruption package "a tiny miracle," saying it will send the right signal. But leading political scientist Vladimira Dvorakova pointed out that "you can pass a lot of laws, but if there's no outside control or pressure to enforce them, it doesn't work." The problem, she noted, is clearly accountability. "We have the right to ask the politicians questions, but if he or she doesn't answer, that's it. Nothing happens." Pollster Jan Hartl pointed out to poloffs that Czech voters habitually do not punish corruption at the polls because, he claimed, voters are resigned to corruption as an inevitable part of Czech politics.

¶11. (SBU) Jo Weaver, board member of the International Business Forum, which represents British firms, noted that, "the general feeling is that about 90 percent of the public tenders in the UK are clean, and 10 percent are not, whereas here (the Czech Republic) the feeling is that about 99.9 percent are dirty" (Comment: In our view, this is an exaggeration. End comment).

¶12. (SBU) The same sentiment was echoed on January 19 at an AmCham roundtable on proposed public procurement reform. Business representatives discussed their individual experiences with corruption, highlighting how tenders are tailored to particular bidders and describing the bureaucratic pitfalls that are used to thwart unwanted bids. Passage of the anti-corruption package is important to the AmCham, as it believes the window of opportunity to take action is prior to the upcoming election. AmCham also understands that enforcement is critical to solving the corruption problem, and is lobbying parliament for legislation that addresses core problems.

¶13. (SBU) AmCham members have warned that Pecina's package does not go nearly far enough, and AmCham has reached out directly to PM Fischer to express their concerns over corruption and has offered concrete suggestions to combat it. These include the abolition of bearer bonds; a requirement that all bidders for government contacts reveal their true owners; tighter restrictions on the use of no-bid contracts; requiring decisions to use no-bid contracts be made by the cabinet and not individual ministries; requiring government entities to report not only the bid price but the actual price of contracts following cost overruns; and joining the Convention on the Protection of the European Communities

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Financial Interests and the Convention on the Fight Against Corruption Involving Officials of the European Communities or the Officials of EU Member States.

A Matter of Perspective -- and Leadership

¶14. (C) Comment: The Czech Republic ranked 52nd out of 180 on the TI 2009 corruption perceptions index; so corruption here is not nearly in the same league as European countries further east. However, among EU countries on the TI index, the Czech Republic is tied for 20th out of 27. Corruption is a serious problem here, inhibiting business, including U.S. business, and poisoning domestic politics. The Czechs can and should do better. Pecina's proposal is a step in the right direction, but ultimately the solution to the corruption problem will require electing a strong, committed leader who has a like-minded cabinet. Unfortunately, no such political leader has yet emerged. Until one does, the Czech public will remain rightly skeptical of its leaders, equating politics with "corruptionism." End Comment.
Thompson-Jones